

Application No.: 10/734,953  
 Response to Office Action of April 04, 2006  
 Attorney Docket: HENTE-088A

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants:	Larry D. Brown	)	Confirmation No.	1455
		)		
Serial No.:	10/734,953	)	Art Unit:	3632
		)		
Filed:	12/12/2003	)	Examiner:	Tan Le
		)		
For:	PIPE AND CABLE HOLDER	)		
		)		

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

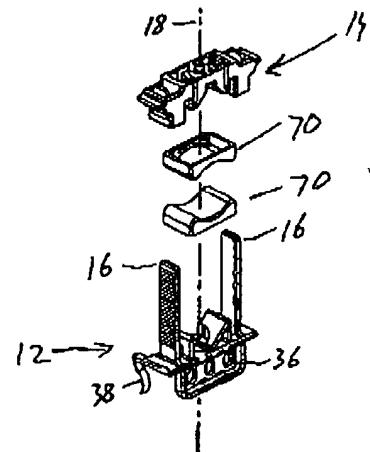
Mail Stop Af  
 Randolph Building  
 401 Dulany Street  
 Alexandria, VA 22314

Dear Pre-Appeal Board:

Apparatus Claims 1-6, 15, 17-20, 22, 25-33 and 51-64 and 67-68 were rejected in the Final Office Action mailed April 7, 2006. Claims 1 and 5 were amended after final to place them in better condition for appeal. The rejection of all these claims is contested.

The application describes a pipe clamp bracket to hold plumbing pipes in position in a home, with part of Fig. 25 shown to the right to illustrate the bracket. A pipe is held between two upright arms 16 and two clamps having elastomeric caps 70. App. ¶114-116. Each cap fits over a V-shaped notch. A top clamping block 14 fits over the two ratchet arms 16 to fasten the top clamping block to the arms and to hold the pipe in position.

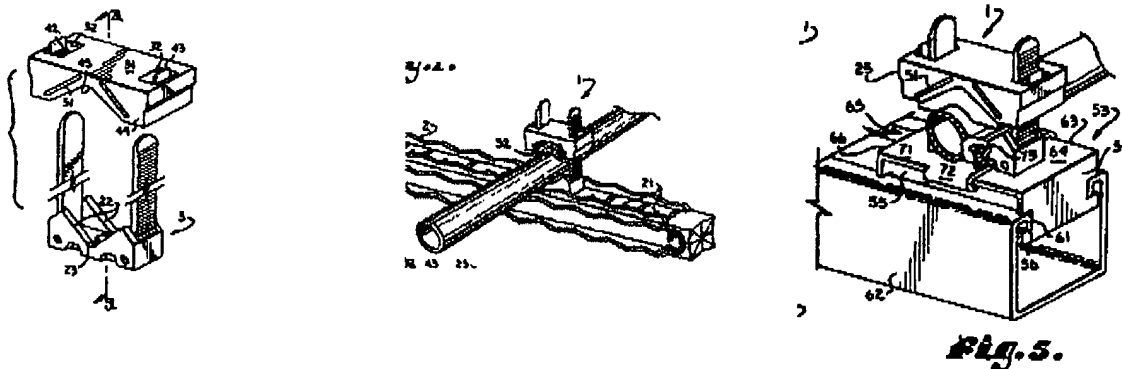
The base 12 has a depending flange 36 and one or more legs 38 opposite the flange. The flange and legs 38 clip onto opposing sides of a support bar to hold the bracket in position, thus freeing both of the user's hands to further secure the base to the support bar. The dispute centers on the caps 70 and on the flange 36 and leg(s) 38.



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The bulk of the claims are rejected as anticipated by Ismert (6,126,122) which shows a base with parallel ratchet arms and two clamps. The clamps also have V-shaped notches and optional slots 51 to add flexibility adjacent the notches. But the notches are formed in two spaced-apart, parallel walls 22, 111 as shown below on the left.



Ismert also shows an "optional pad 52" (middle figure) that is "used for cushioning the pipe 24." Col. 4, line 67 to Col. 5, line 4. No further textual description of the pad 52 is provided in Ismert, but the figures show that the pad 52 is an insert fitting between two spaced-apart and notched walls 22, 111. No other mechanism is described as holding the pad 52, but it is located between walls 22, 111. The notched walls are shown in Fig. 5 (right image) as extending in front of the pad 52 as occurs when the pad is inserted between the walls 22, 111.

#### Section 102 Rejection – Cap v Pad

Claims 1-2, 3, 5-6, 17-20, 22, 25-33 and 51-62 were rejected as anticipated by Ismert, but Ismert's pad 52 does not meet the requirements of the "cap" defined in the claims.

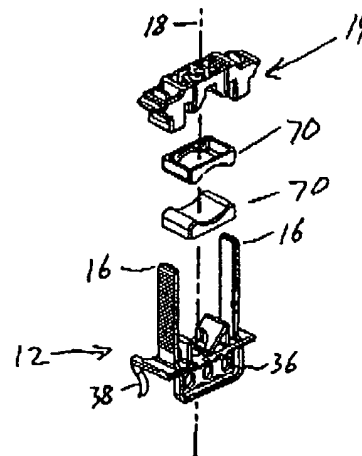
**Independent Claim 1** defines a "cap" extending over V-shaped notches "and over a portion of the exterior side of the corresponding inclined surfaces forming the notch." Ismert describes "cushioning pad 52" and shows that pad as located between the notched walls 111. The Applicant maintains that Ismert's "pad" is not a "cap" so there is no anticipation.

Moreover, the claimed cap is defined as extending over the exterior sides of the inclined surfaces forming the V-shaped notch. Ismert's pad does not extend over the exterior sides of the V-shaped notch as it is located between the notched walls. Each claim requirement is not identically met by Ismert. There is no anticipation under §102.

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**Independent Claims 25 & 62** define “cap means including means to hold or secure the cap to the support means” (Claim 25) and “cap means ... to hold or secure the cap to the second support means” (Claim 62). The Application depicts the cap 70 as having sides and ends, as shown in a portion of Figure 25 to the right. Application ¶ 114 describes the cap as fitting over the sides and/or ends of the support, or as being stretched over the support. That paragraph also mentions adhesives or other mechanical fasteners to hold the cap onto the support. In contrast, Ismert describes a pad 52, not cap means, so the structure is different. Ismert also describes no means for securing the pad 52 to Ismert’s walls 22, 111. Col. 4, line 67 to Col. 5, line 4. There is no anticipation.



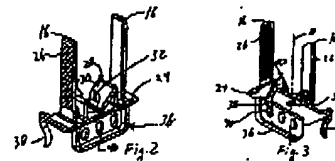
**Dependent Claims:** Further features of the cap are defined in dependent Claims 5, and 68 which define the cap fitting over sides and ends of the V-shaped notches, and that is also not found in Ismert. Dependent Claim 67 further defines the cap as having a center between the ends which center does not abut either of the inclined surfaces. That is also not found in Ismert.

As Ismert’s “pad” does not meet the requirements of the “cap” defined in Claims 1-6, 15, 17-20, 22, 25-33 and 51-64 and 67-68 the §102 rejection should be withdrawn.

#### Section 102 Rejection – Flanges & Legs

Claims 51-61 and dependent Claims 16-18, 27, 32 define various flanges and resilient members that are also rejected as anticipated by Patent No. 6,126,122 to Ismert.

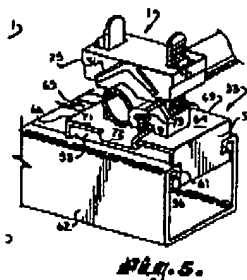
**Independent Claims 51 & 55** each require a member opposite the flange where the member is “resiliently disposed toward the flange.” This is directed toward resilient leg 38 opposite flange 36 shown in Figures 2-3 to the right. The flange and resilient legs grip a support bar and can allow a user to temporarily fasten the bracket to the structural support using one hand. Once fastened, the user has two hands free to more securely fasten the bracket or position the pipe.



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Ismert has an adaptor 53 shown in Fig. 5 (to the right) that uses two overlapping, L-shaped plates 63, 65 that slide relative to each other and are held in relative position by a screw. One plate has curved lips 72 forming a channel that receives the other plate to form a telescoping assembly held in position by the screw. Col. 5, lines 5-25.



Lip 72 is cited for the resilient leg. But Ismert says part 72 is a rolled lip so it cannot comprise the resilient member from the claims.

As Ismert lacks the resilient member(s), Claims 51-61 and dependent Claims 16-18, 27, 32 are not anticipated.

### Section 103 Rejections

Claims 4, 15 and 63-64 and 67-68 were rejected as obvious over Ismert.

Claim 4 defines a specific hardness range, and Claims 15 and 63-64 define a rib extending the a substantial length of the arm.

"The prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP 2142, citing *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991).

Further, no reference is cited showing the hardness range for the described bracket and no reference is cited to show a rib on the claimed ratchet arm which includes ratchet teeth. The obviousness rejection should be reversed.

Claims 67-68 are rejected as obvious under §103 because they "also broadly read on Ismert." Office Action at 4. That does not identify the basis of the §103 rejection. MPEP §706.02(j). Further, no reference is cited showing the features of Claim 67 (cap center not abut center of inclined surface) or 68 (cap extends over ends and sides). Reversal of the rejection is required. MPEP 2142 (discussed above).

### Conclusion

Reversals of the rejections of Claims 1-6, 15, 17-20, 22, 25-33 and 51-64 and 67-68 are respectfully requested.

If any additional fee is required, please charge Deposit Account Number 19-4330.

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Respectfully submitted,

Date: 7/6/06

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